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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

MAUREEN TOFFOLONI, as Administrator and Personal Representative of the ESTATE OF NANCY E. BENOIT, Plaintiff,	)	Case No. 1:08-CV-00421-TWT
v.	)	
LFP PUBLISHING GROUP, LLC., d/b/a Hustler Magazine, MARK SAMANSKY, an individual, and other distributors and sellers of Hustler Magazine, as Defendants X, Y, and Z, Defendants	)	

MOTION FOR AN AWARD OF ATTORNEY FEES PURSUANT TO RULE 11 OF THE FEDERAL RULES OF CIVIL PROCEDURE AND THE COURT'S INHERENT POWERS

COMES NOW, Plaintiff Maureen Toffoloni, as Administrator and Personal Representative of the Estate of Nancy E. Benoit, and files this Motion for an Award of Attorney Fees, through counsel, as follows:

(1)

On or about September 15, 2009, counsel for Defendant LFP Publishing Group, LLC d/b/a/ Hustler Magazine (hereinafter "Hustler") advised the undersigned

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that Hustler intended to file a petition in the United States Supreme Court for the grant of a Writ of Certiorari, and to seek a stay of these proceedings in the District Court.

(2)

During this conversation, and subsequent conversations, counsel for Appellant advised counsel for Hustler that Federal case law did not support a stay of these proceedings pending Hustler's attempt to obtain a hearing by the Supreme Court of the United States.

(3)

On September 17, 2009, Hustler filed a "Notice of Intent to Petition Supreme Court of the United States for a Writ of Certiorari and Motion to Stay Proceedings".

(4)

As set out in more detail in Plaintiff's response to Hustler's motion to stay, federal case law does not support Hustler's request for a stay. Hustler's motion lacks any proper purpose, and was filed to harass the Plaintiff, to attempt to cause unnecessary delay, and to needlessly increase the cost to Plaintiff of this litigation.

WHEREFORE, Plaintiff requests an award of attorney fees in accordance with the Affidavit of Richard P. Decker, attached to this Motion and filed herewith as "Exhibit A".

Respectfully submitted this 22nd day of September, 2009.

/s/ Richard P. Decker
RICHARD P. DECKER
State Bar of Georgia #215600

For HALLMAN & WINGATE, LLC
Attorneys for Plaintiff

166 Anderson Street, S.E.
Suite 210
Marietta, Georgia 30060
(404) 588-2530

CERTIFICATION OF COUNSEL

Pursuant to N.D. Ga. Local Rule 7.1D, I hereby certify that this document is submitted in Times New Roman 14 point type as required by N.D. Ga. Local Rule 5.1B.

/s/ Richard P. Decker
RICHARD P. DECKER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

MAUREEN TOFFOLONI, as Administrarix and Personal Representative of the ESTATE OF NANCY E. BENOIT, Plaintiff, v. LFP PUBLISHING GROUP, LLC, d/b/a Hustler Magazine, MARK SAMANSKY, an Individual, and other distributors and sellers of, Hustler Magazine, as Defendants X, Y, and Z, Defendants.	)))))))))))))))))	CIVIL ACTION FILE NO. 1:08-CV-0421-TWT

CERTIFICATE OF SERVICE

This is to certify that today, September 22, 2009, I have electronically filed the foregoing *Motion for an Award of Attorney Fees Pursuant to Rile 11 of the Federal Rules of Civil Procedure and the Court's Inherent Powers* with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorney(s) of record:

Barry J. Armstrong, Esq.
James Clifton Rawls, Esq.
S. Derek Bauer, Esq.

William M. Feigenbaum, Esq.
McKenna, Long & Aldridge, LLP
303 Peachtree Street, NE, Suite 5300
Atlanta, Georgia 30308

/s/ Richard P. Decker
RICHARD P. DECKER
State Bar of Georgia #215600

For HALLMAN & WINGATE, LLC
Attorneys for Plaintiff

166 Anderson Street, S.E.
Suite 210
Marietta, Georgia 30060
(404) 588-2530